

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

CLAY VINSON HAYNES,

Petitioner,

v.

SCOTT SOUZA,

Respondent.

No. 4:21-CV-5058-TOR

ORDER DISMISSING PETITION  
WITHOUT PREJUDICE

By Order filed May 5, 2021, the Court directed Petitioner to show cause why his *pro se* Petition for a Writ of Habeas Corpus Under 28 U.S.C. § 2241 should not be dismissed due to his failure to exhaust state court remedies and as a proper exercise of abstention under *Younger v. Harris*, 401 U.S. 37 (1971). ECF No. 5. Petitioner submitted a timely response. ECF No. 7. On May 12, 2021, before filing his Response to the Order to Show Cause, Petitioner filed a document that he claims was submitted to the “Superior Court” on April 29, 2021. ECF No. 6 (Supplement). He claims the document was ignored and that the state’s attorney passed on oral

1 argument. *Id.* at 1. Petitioner states he is awaiting a ruling and hopes the ruling  
2 will be expedited “to protect [his] ‘right’ to be free of ‘double jeopardy.’” *Id.*  
3 Petitioner, a pretrial detainee at the Benton County Jail, is proceeding *pro se* and *in*  
4 *forma pauperis*.

### 5 ***YOUNGER* ABSTENTION**

6 In its Order to Show Cause, the Court determined that *Younger* abstention  
7 applies to Petitioner’s action and thus, the district court must not interfere with his  
8 ongoing state proceedings unless extraordinary circumstances exist, such as a threat  
9 of irreparable injury that is “both great and immediate.” *Younger*, 401 U.S. at 46.  
10 Extraordinary circumstances may also include bad faith or harassment on the part  
11 of the state. *Middlesex Cty. Ethics Comm. v. Garden State Bar Ass’n*, 457 U.S. 423,  
12 437 (1982).

13 Petitioner contends that *Younger* abstention should not be applied to this  
14 action. ECF No. 7 at 4. Throughout his Response, Petitioner provides citations to  
15 legal authorities and recitations of legal principles, but his factual allegations are  
16 sparse. He asserts that his speedy trial rights were violated “[b]efore’ the Covid-  
17 19 excuses by 24 months (on or about).” *Id.* at 2. Petitioner claims that his pretrial  
18 detention is “oppressive” and “is nothing more than ‘punishment.’” *Id.* at 6. He  
19 claims that he “has been restricted to ‘only snail mail’” and he references “[b]ad  
20 faith and harassment on the Superior Court part pg 7 at 9.” *Id.* at 2, 5.

1       Petitioner does not identify any “extraordinary circumstances” that would  
2 warrant an exception to abstention. Although Petitioner asserts that he has had a  
3 lengthy pretrial detention and he offers conclusory assertions of bad faith and  
4 harassment by the state court, he does not present any facts to suggest that the  
5 prosecution on the four remaining criminal charges in Benton County case number  
6 17-1-01323-8 is being done to harass him or is being pursued in bad faith without  
7 any hope of conviction. *Perez v. Ledesma*, 401 U.S. 82, 85 (1971). Accordingly,  
8 the Court concludes that *Younger* abstention is appropriate, as Petitioner has not  
9 asserted facts sufficient to show he is entitled to federal pretrial intervention.

#### 10                                   EXHAUSTION REQUIREMENT

11       In any event, Petitioner has failed to demonstrate that he has exhausted his  
12 state court remedies. Petitioner asserts that “the Superior Courts fail to entertain  
13 ‘written’ responses to motions (only oral)...” ECF No. 7 at 3. He notes that  
14 “Superior Court ‘avoids’ ‘Habeas Corpus hearing’ ... and no written order even  
15 when provided so no appeal.” *Id.* at 5. It is unclear what Petitioner is asserting.

16       As noted in the Order to Show Cause, Petitioner has presented no facts  
17 indicating that he has properly exhausted each of his claims for federal habeas relief  
18 through the state court system to the Washington State Supreme Court. Petitioner  
19 has offered no reason for his failure to first exhaust his claims in state court, and  
20

1 neither the Petition itself nor Petitioner's Response to the Court's Order to Show  
2 Cause discloses any reason why the exhaustion requirement should be excused.


3 Accordingly, for the reasons set forth above and in the Court's prior Order,  
4 ECF No. 5, **IT IS HEREBY ORDERED** that the Petition, ECF No. 1, is  
5 **DISMISSED WITHOUT PREJUDICE** for failure to exhaust state court  
6 remedies.

7 Petitioner's *in forma pauperis* status is **REVOKED**.

8 **IT IS SO ORDERED.** The Clerk's Office is directed to enter this Order,  
9 enter judgment, provide copies to Petitioner, and **close** the file. The Court certifies  
10 that, pursuant to 28 U.S.C. § 1915(a)(3), an appeal from this decision could not be  
11 taken in good faith and there is no basis upon which to issue a certificate of  
12 appealability. *See* 28 U.S.C. § 2253(c); Fed. R. App. P. 22(b). A certificate of  
13 appealability is therefore **DENIED**.

14 **DATED** May 19, 2021.



  
THOMAS O. RICE  
United States District Judge